APPEAL TO THE BOARD OF PATENT AP-
PEALS AND INTERFERENCES IN *Inter
Partes* REEXAMINATION

**§ 1.959 Notice of appeal and cross ap-
peal to Board of Patent Appeals and
Interferences in *inter partes* reexam-
ination.**

(a)(1) Upon the issuance of a Right of
Appeal Notice under § 1.953, the patent
owner involved in an *inter partes* reex-
amination proceeding may appeal to
the Board of Patent Appeals and Inter-
ferences with respect to the final rejec-
tion of any claim of the patent by fil-
ing a notice of appeal within the time
provided in the Right of Appeal Notice
and paying the fee set forth in § 1.17(b).

(2) Upon the issuance of a Right of
Appeal Notice under § 1.953, a third
party requester involved in an *inter
partes* reexamination proceeding may
appeal to the Board of Patent Appeals
and Interferences with respect to any
final decision favorable to the patent-
ability, including any final determina-
tion not to make a proposed rejection,
of any original, proposed amended, or
new claim of the patent by filing a no-
tice of appeal within the time provided
in the Right of Appeal Notice and pay-
ing the fee set forth in § 1.17(b).

(b)(1) Within fourteen days of service
of a third party requester's notice of
appeal under paragraph (a)(2) of this
section and upon payment of the fee
set forth in § 1.17(b), a patent owner
who has not filed a notice of appeal
may file a notice of cross appeal with
respect to the final rejection of any
claim of the patent.

(2) Within fourteen days of service of
a patent owner's notice of appeal under
paragraph (a)(1) of this section and
upon payment of the fee set forth in
§ 1.17(b), a third party requester who
has not filed a notice of appeal may file
a notice of cross appeal with respect to
any final decision favorable to the pat-
entability, including any final deter-
mination not to make a proposed rejec-
tion, of any original, proposed amend-
ed, or new claim of the patent.

(c) The notice of appeal or cross ap-
peal in an *inter partes* reexamination
proceeding must identify the appealed
claim(s) and must be signed by the pat-
ent owner, the third party requester, or

their duly authorized attorney or
agent.

(d) An appeal or cross appeal, when
taken, must be taken from all the re-
jections of the claims in a Right of Ap-
peal Notice which the patent owner
proposes to contest or from all the de-
terminations favorable to patent-
ability, including any final determina-
tion not to make a proposed rejection,
in a Right of Appeal Notice which a
third party requester proposes to con-
test. Questions relating to matters not
affecting the merits of the invention
may be required to be settled before an
appeal is decided.

(e) The times for filing a notice of ap-
peal or cross appeal may not be ex-
tended.

(f) If a notice of appeal or cross ap-
peal is timely filed but does not com-
ply with any requirement of this sec-
tion, appellant will be notified of the
reasons for non-compliance and pro-
vided with a non-extendable period of
one month within which to file an
amended notice of appeal or cross ap-
peal. If the appellant does not then file
an amended notice of appeal or cross
appeal within the one-month period, or
files a notice which does not overcome
all the reasons for non-compliance
stated in the notification of the rea-
sons for non-compliance, that appel-
lant's appeal or cross appeal will stand
dismissed.

[65 FR 76777, Dec. 7, 2000, as amended at 68
FR 71007, Dec. 22, 2003]

**§ 1.961 Jurisdiction over appeal in *inter
partes* reexamination.**

Jurisdiction over the *inter partes* re-
examination proceeding passes to the
Board of Patent Appeals and Inter-
ferences upon transmittal of the file,
including all briefs and examiner's an-
swers, to the Board of Patent Appeals
and Interferences. Prior to the entry of
a decision on the appeal, the Director
may *sua sponte* order the *inter partes* re-
examination proceeding remanded to
the examiner for action consistent
with the Director's order.

**§ 1.962 Appellant and respondent in
inter partes reexamination defined.**

For the purposes of *inter partes* reex-
amination, appellant is any party,
whether the patent owner or a third

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